

**Testimony**

**by**

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**\*The views expressed here are those of the author, not the US Institute of Peace,  
which does not take positions on policy issues.**

It is a great pleasure to have this opportunity to offer you my personal views at this critical moment in contemporary Balkans history. The international community is now preparing—as it must—to resolve the last remaining issue of war and peace in the Balkans: the status of Kosovo. More than 15 years after its loss of autonomy helped to precipitate the break-up of former Yugoslavia, Kosovo is back at the top of the agenda.

The “final status” of Kosovo is clear enough: like the rest of its all too troublesome neighborhood, Kosovo will eventually become part of the European Union (EU). The issue is how it will get there, starting from its current status as a protectorate administered by the United Nations Mission in Kosovo (UNMIK). And whether it will get there in one piece, or in two.

A great deal has been written and said about this subject: everyone has heard that Kosovo Albanians want independence and that Belgrade would like to preserve Serbian sovereignty. I do not expect these positions to change, but neither Pristina nor Belgrade is likely to get all it wants. The range of viable options is narrowing.

But rather than offer you a magical solution to the problem of Kosovo’s status, I would like to approach the issue by talking about the process, working backwards from the final step: the entry of Kosovo into the EU. One of the great achievements in the Balkans in recent years is the consensus both in Europe and the US that all of the Balkans belongs in the EU. So if this is where Kosovo is going, how does it get there?

### **Kosovo Enters the European Union**

The first thing to be said is that Kosovo is not going to enter the EU any time soon. Even an aggressive effort to meet the standards developed by UNMIK, establish good governance, increase competence in the Provisional Institutions of Self-Government (PISG), crack down on organized crime, treat minorities well and implement the 80,000 pages of regulations required of an EU member would make Kosovo a candidate in 2015 and a member in 2020. More realistic estimates might be 2020 and 2025.

Serbia itself has far better prospects. Serbia, if it continues to clear up its record on harboring war criminals, could reasonably hope to be a candidate by 2008 and a member by 2012, or even earlier. Whatever the specific dates, it is clear that Serbia minus Kosovo can enter the EU earlier than Kosovo can. As part of the negotiations over Kosovo’s status, Serbia might even be able to become an immediate candidate. Failure to resolve Kosovo’s status can only delay Serbia’s EU membership.

The EU negotiates membership only with sovereign states, though it has made provisions for sovereign states that do not control all of their own territory (Cyprus, for example). It is difficult to imagine that Serbia, a member of the EU for perhaps a decade before Kosovo, would want to be the sovereign state with which the EU would negotiate Kosovo’s entry, or that the Kosovars would put up with it. Serbia, to the contrary, will want to be on the EU side of this negotiation as a full-fledged member, avoiding responsibility for Kosovo’s governance and wielding a veto over Kosovo’s accession.

## **From Limited Sovereignty to Sovereign State**

The issue is therefore not so much whether Kosovo will ever be a sovereign state, but rather how it will become one before accession to the EU. Some have proposed that Kosovo remain a protectorate—under the EU if not the UN—until just before accession. This is not a viable proposition. While the EU might begin to deal with Kosovo as a candidate before it achieves full sovereignty, Europe will want to know that the Kosovo authorities can regulate a free market economy and govern a democracy, including respect for minority rights. It would be folly for the EU to allow accession of a state that had not met this test over a period of years, if not a decade or more.

But if Kosovo—in order to become an EU member—must some day be a sovereign state, it is clear that Kosovo does not seek, and will not in the near future have, full sovereign control over its own security, judicial system and foreign affairs. Kosovo will want for some time to continue an international military presence on its territory. Kosovars welcome international prosecutors and judges in their judicial system to carry the burden of dealing with inter-ethnic crime. Kosovo will accept restrictions on its relations with Albania and Macedonia that make Greater Albania or Kosovo impossible.

Thus Kosovo, once the UN protectorate is terminated, will still live under a regime of limited sovereignty. Foreign troops will guarantee its security, international judges and prosecutors will handle inter-ethnic cases in its courts, international police will monitor the Kosovo Police Service, and its relations with its neighbors will be governed in part by the international community. Limited sovereignty would still allow Kosovo to govern itself and to send diplomats abroad and enter as a full member the UN, the World Bank, the IMF and other international organizations.

## **From Protectorate to Limited Sovereignty**

This brings us to the present challenge: how to end the UN protectorate and establish a regime of limited sovereignty, including conditions for both Kosovo and Serbia. This will require a new Security Council resolution to replace 1244, which established the protectorate in June 1999. For a new resolution to pass, Russia and China will at least have to abstain. The US will have to be prepared to vote in favor. All three permanent members have their own reasons for not wanting a former province to gain independence: it could be viewed as a precedent for Chechnya, Tibet or Kurdistan.

The Contact Group has been pointing in the direction of limited sovereignty by saying that Kosovo will not be returned to Belgrade's rule and not be allowed to unify with neighboring Albanian territory. An International Commission on the Balkans went further in its April report by suggesting that Kosovo's de facto independence be accepted. The former Foreign Minister of Serbia and Montenegro who signed on to this report has been much criticized, and threatened, in Serbia, but no one in Belgrade contests the facts: Albanian-controlled Kosovo cannot be governed from Belgrade and will have to make its own way to the European Union.

Where will the incentives for a negotiated agreement come from? For Serbia, the EU will have to provide early candidacy, as well as a strong message that no better offer is possible. This may not be as difficult as EU officials like to make out, because Serbia has the technical capacity required to move quickly towards qualifying on the merits. Candidacy can last a substantial period of time, and brings with it large assistance benefits. For Kosovo, the US will have to deliver the Albanians, by making it clear there is no better offer in prospect and by agreeing to continue the NATO presence.

It is important to note what is not necessary to achieve a negotiated solution at this stage: there is no need for an agreement to be signed by Serbia or by Kosovo. Nor is there need for Kosovo and Serbia to agree; they need only allow others to abstain. Only if Belgrade is prepared to accept will Russia and China allow a new Security Council resolution to pass. Only if Pristina accepts will the United States allow it.

### **One Piece, or Two?**

Thus we can imagine a process that takes Kosovo from the current UN protectorate, to a regime of limited sovereignty, to sovereignty and eventual EU membership. But can we imagine this happening to the whole of Kosovo, Serbs and Albanians together, or do they need to be separated, each group on their own territory?

This is the single most vexing question facing Kosovo. The Contact Group has made it clear that Kosovo will not be partitioned, i.e. it will not be formally divided, with one part going to Serbia and the Albanian part becoming independent. The international community does not want to set a precedent in Kosovo that could threaten the territorial integrity of Macedonia and Bosnia as well as countries in other parts of the world.

But underlying this refusal to consider formal partition is growing acceptance of ethno-territorial separation. The UN has been unable to end Belgrade's control of the three and a half northern municipalities in Kosovo, as well several Serb enclaves south of the Ibar River. It has been unable to get more than a few Serbs to participate in the Provisional Institutions of Self-Government, or even to vote in Kosovo elections.

The internationals seem to be getting ready to accept a solution in which Kosovo Serb communities govern themselves, run their own schools and health systems, and choose their own police, without reference to Pristina. Many internationals expect that most Serbs will sooner or later end up concentrated in very few areas in Kosovo, where they will live de facto as Serbian citizens on Serbian soil.

This is called "decentralization" in UN-speak, but here in the US Congress we should be more forthright: it is ethno-territorial separation, segregation or apartheid in different places and times, with Serb "local control" being a euphemism for Belgrade's control. It is one small step short of the partition that internationals say they do not want. I have to wonder whether it would be better to allow partition on to the negotiating table—to be accepted or rejected on the merits—rather than reject it in word and allow it in deed.

The Dayton agreements attempted a “decentralized” system of two entities in Bosnia. That experiment failed, and we have spent the past ten years trying at great expense to build up the central government and end separate governance of Serbs, Croats and Bosniaks. To avoid repeating that experience, the northern Kosovo municipalities should be put under international administration during Kosovo’s regime of limited sovereignty, or until a solution is found.

Many Serbs and Albanians have little hope of living together, but we should not fool ourselves: decentralization along ethnic lines could easily slip into partition. Sooner or later lines drawn inside Kosovo between Serbs and Albanians could become borders, or the front lines of the next war.

### **Only the US and EU Can Negotiate a Solution**

In concluding, I would like to consider the question of who can drive the process outlined above? Who can make a negotiated solution in Kosovo happen? My answer is unequivocal: only the US and the EU, working in tandem, can drive the process to a successful conclusion. The UN has a role to play, both through the Security Council and through the Special Representative of the Secretary General in Pristina. The Contact Group has a role to play as well, ensuring close consultation with the Russians as well as the British, French, Germans and Italians. But only if the EU and the US make decisions on Kosovo’s status a joint enterprise will there be enough political and economic weight to ensure a win-win solution.

This basic idea of a joint US/EU effort is generally accepted, but some variants I hear discussed give me pause. The UN should give the US and EU negotiators their mandate, consistent with UNSC resolution 1244, but they need not work for the Secretary General. Nor is it wise to have a senior EU envoy and more junior US deputy. Both should be senior figures, though the European may well be a former high official and the American might be someone connected to the current Administration.

Working together, such a tandem could begin work immediately after the July standards review, initiating contacts with Belgrade and Pristina and consulting with the Contact Group and Kosovo’s neighbors. In September or October, the Security Council would define the parameters within which the negotiators would work, including both the process and unacceptable end-states. Actual negotiations would be staged November 2005 to March 2006, with proximity talks convened if the negotiators deem it necessary. The US and EU envoys would then craft a solution, present it to Pristina and Belgrade, and conclude the process with Contact Group and UN Security Council endorsement by a year from now.

Now is the time to begin the process. It will end, as I said at the outset, at some distant date with Kosovo’s entry into the European Union.